

**Ralston Purina Company and American Federation
of Grain Millers International Union, AFL-
CIO, Petitioner. Case 26-RC-6283**

February 19, 1982

DECISION AND DIRECTION

**BY CHAIRMAN VAN DE WATER AND
MEMBERS FANNING AND HUNTER**

Pursuant to authority granted it by the National Labor Relations Board under Section 3(b) of the National Labor Relations Act, as amended, a three-member panel has considered determinative challenges in an election held on December 5, 1980,¹ and the Hearing Officer's report recommending disposition of same. The Board has reviewed the record in light of the exceptions and briefs and hereby adopts the Hearing Officer's findings except as modified herein.²

The Hearing Officer concluded that Anthony Steve Hopson is a supervisor under Section 2(11) of the Act because he exercises independent judgment in assigning work and preparing work schedules. We disagree for the following reasons.

Hopson, the lead sanitarian in the Employer's sanitation department, reports directly to Paul Averyhart, the quality supervisor who manages the sanitation department. There are six other employees in the department: two sanitarians, who apply pesticide and other chemicals where necessary in the plant, and four sanitation employees, who perform the plant's routine maintenance and cleanup work.

As lead sanitarian, it is Hopson's job to prepare daily work schedules for the department's six employees. Since most of the tasks are routine and must be performed on a regular schedule, Averyhart prepares a log for Hopson which lists the particular tasks to be performed on each day of the week. In addition, Hopson meets with Averyhart each afternoon to discuss additional tasks to be performed that are not on the log and the progress being made on the tasks employees are currently

performing. The following morning Hopson prepares a list of the tasks that have to be performed that day based on Averyhart's log, the instructions Averyhart gave him at their meeting the previous afternoon, and his visual inspection of the premises. Then Hopson meets with the six sanitation department employees and they select the tasks they will perform during the day. As soon as Averyhart reports to work, Hopson shows him the daily work schedule. If any changes have to be made either then or later in the day, Averyhart so instructs Hopson. Also, if additional employees are needed, Averyhart hires the temporary employees and tells Hopson what tasks they are to perform. Both Hopson and Averyhart monitor the employees' work throughout the day. If Hopson comes across a problem, he reports it to Averyhart who evaluates the situation himself and devises the solution. Similarly, during the day Hopson occasionally assigns other jobs as Averyhart informs him they need to be performed, but the schedule is essentially prepared in the early morning meeting.

While recognizing Averyhart's close supervision of employees in the department, the Hearing Officer concluded that Hopson was a supervisor because he prepares the daily work schedules himself and assigns work to the employees in the department. Considering that Hopson prepares the schedule principally from Averyhart's log and his prior afternoon meetings with Averyhart, we conclude, contrary to the Hearing Officer, that in preparing the daily work schedules Hopson does not exercise the independent judgment the Act requires for finding supervisory status. See *Westlake United Corporation*, 236 NLRB 1114 (1978). Nor does he exercise such authority when assigning work. Unlike the assistant foremen in *Murray Equipment Company, Inc.*, 226 NLRB 1092 (1976), upon which the Hearing Officer relied, Hopson rarely assigns particular work to particular employees. They themselves select their tasks for the day each morning; Hopson merely prepares the list of the tasks to be performed. As the constant communication between Averyhart and Hopson demonstrates, Hopson does very little without first receiving instructions from Averyhart. Therefore, we conclude that, when Hopson assigns work and prepares the daily work schedule, he functions as the conduit for Averyhart's instructions, rather than as a supervisor himself. See *Cablevision Systems Development Company, a Partnership*, 251 NLRB 1319, 1323 (1980).

¹ The election was conducted pursuant to a Stipulation for Certification Upon Consent Election. The tally was: 71 for, and 69 against, the Petitioner. There were 19 challenged ballots. The Acting Regional Director sustained 11 and sent 8 to hearing. The Hearing Officer sustained seven of the remaining eight, but exceptions were filed only to the ruling on the ballot of Anthony Steve Hopson. The Hearing Officer overruled the challenges to the ballot of Ronnie Carl Jamison.

² In the absence of exceptions thereto, the Board adopts, *pro forma*, the Hearing Officer's recommendation that the challenge to the ballot of Ronnie Carl Jamison be overruled and that the challenges to the ballots of Clifton Fiveash, Phillip Underwood, Larry Gilmer, Jack McKinney, Larry Morgan, and Danny Emerson be sustained.

DIRECTION

It is hereby directed that the Regional Director for Region 26 shall, within 10 days from the date of this Decision, open and count the ballots of An-

thony Steve Hopson and Ronnie Carl Jamison and thereafter prepare and cause to be served on the parties a revised tally of ballots, upon which basis he shall issue the appropriate certification.